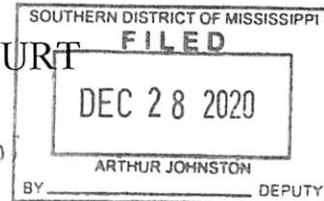


Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Southern District of MISSISSIPPINorthern Division

Case No.

3:20-cv-822-HTW-LRA

(to be filled in by the Clerk's Office)

Stephen Montalto

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

M.D.O.C., E.M.C.F.
Warden Shaw, officer
Bonner, officer Gracie

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Stephen Montalto
 All other names by which
 you have been known: _____
 ID Number 142736
 Current Institution East Mississippi Correctional facility
 Address 10641 Hwy 80 W
Meridian MS 39307
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name Frank Shaw
 Job or Title (*if known*) Warden
 Shield Number _____
 Employer E.M.C.F.
 Address 10641 HWY 80 W
Meridian MS 39307
City State Zip Code

☐ Individual capacity ☐ Official capacity

Defendant No. 2

Name Mrs. Bonner AKA (Vaughn)
 Job or Title (*if known*) Officer / Sergeant
 Shield Number _____
 Employer E.M.C.F.
 Address 10641 HWY 80 W
Meridian MS 39307
City State Zip Code

☐ Individual capacity ☐ Official capacity

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

Defendant No. 3

Name

Mrs. Gracie

Job or Title (if known)

Officer

Shield Number

Employer

E.M.C.F.

Address

10641 Hwy 80 WMeridian

City

MS

State

39307

Zip Code

☐ Individual capacity☐ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐ Individual capacity☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Please see Corresponding page 3.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

II BASIS OF Jurisdiction

B.

I Claim the deprivation and Violation of my Eighth Amendment rights which Prohibits the Cruel and Unusual Punishment of negligence, deliberate indifference, Sexual Harrassment, Sexual assault and assault and Battery.

My Eighth Amendment rights and Fourteenth Amendment Equal Protection rights which Prohibit being the target of assault and vulnerable to being attacked were also Violated.

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Warden Shaw, Sergeant Bonner, officer Gracie, unit managers Price/ Jackson and other E.M.C.F. & MDOC Administrators including Security have failed to carry out their duty to protect as a State Prison official in Mississippi. This includes their failure to protect me from cruel and unusual punishment, sexual abuse, gang RICO terrorism, and repeated near death assaults by these gangs.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Please see the details of these events on the
Attached page - IV. Statement of Claim
B.

IV. Statement of Claim

B. The events giving rise to my claim arose at E.M.C.F. in Meridian, MS from 2015 to 2020. However, the time of the specific Physical Assaults, Batteries and time spent illegally confined in lock-down began in 2018 through 2020 on unit 2 BRAVO cell 209, 4 ALPHA cell 211, 5 BRAVO cells 108 & 112, 2 DELTA cell 211, 5 CHARLIE cell 114 and 1 ALPHA cell 111.

C. The first Assault and Battery occurred on unit 2 BRAVO cell 209 in 2018. The second Assault and Battery occurred on unit 2 DELTA cell 211 on April 11th 2020 at approximately 11:45 A.M., the third assault and Battery occurred on November 13th 2020 on 1 ALPHA cell 111 at approximately 3:00 P.M (between 2 and 3 o'clock).

I was Poisoned on 2 DELTA five (5) times during the first week of May, 2020 and on 5 BRAVO four (4) times while being held in Lock-down (illegally) which began on September 17th, 2019.

The Sexual abuse and harassment began while on 2 ALPHA cell 107 and has been ongoing even since (2017).

D. The Assault and Battery I reported in my 5/9/20 Administrative (ARP) Grievance happened on April 11th, 2020 at E.M.C.F. on unit 2 DELTA where I was violently attacked and beaten by a group of Vice Lord gang members. Officers Bonner and Gracie caused me to be violently beaten that day by spreading a false accusation to the gang that I had masterbated / exposed myself to officer Gracie while on the Recreational Yard. I was then verbally

(Corresponding Page 4 of 11 and 5 of 11).

- C. What date and approximate time did the events giving rise to your claim(s) occur?

Please see the attached statement of Claim page for these details.

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Please see the attached pages labeled D. Continued pages 5 of 11.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Please see the attached description of the injuries and events.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Please see the attached request for relief.

assaulted and threatened by a Vice Lord named "Box Head" who then physically attacked me with a few other members of the Vice Lords, one of which is named "Lil D".

Description of the assault and Battery:

I was violently jumped from behind while in my cell on one knee going through my property box. Altogether, there was at least three (3) Vice Lords who pummelled me with fists, then as I started to defend myself, "Box Head" jumped on my back and choked me with both of his arms around my neck as another Vice Lord named "Lil D" hit me repeatedly in the head, face, legs and arms with a hard plastic food tray until I was a bloody mess.

I did not expose myself to Officer Gracie on April 11th 2020 (while on the recreational yard) which she falsely accused me of doing which caused me to be beaten. She was negligent and deliberately indifferent to the harm she caused which

I was about to suffer and failed to get me to medical to treat my injuries. This is cruel and inhumane (I have suffered greatly with terrible pain, numbness, disfigurement, memory loss, PTSD and a permanently split ear).

Officer Gracie's actions of falsely accusing me to the Vice Lord gang of exposing myself to her on the Recreation Yard caused me to get jumped that day a short time after she inaccurately expressed that to them. This was very unprofessional and criminal being that she did not write me a Rule Violation (RVR) for indecent exposure or anything.

Further, Officer/Sergeant Bonner knew she was acting in a manner which would and did cause me to be seriously bodily injured. She came on the zone (2 DELTA) and talked to some gang members a short time before I was jumped by the gang after Officer Gracie falsely accused me to them of exposing myself to her.

- D. continued -

Therefore, Sergeant Bonner either said something to get me assaulted and Battered, had knowledge that her or officer Gracies actions were going to cause me to be harmed, endangered, or they did too little to stop the gang from assaulting me with fists and a weapon. She and officer Gracie also failed to stop the attack while it was in progress and failed to remove me from both the harm she knew was coming my way before the battery and afterwards when the gang repeatedly poisoned me.

I was also brutally assaulted on 1 ALPHA Cell-111 by the Vice Lords with a member of the Latin Kings. This was the third near death assault I suffered at E.M.C.F. It happened on November 13th 2020 between 2 and 3 P.M. I was jumped by several gang members after one of them named "20 MOB" hit me in the face with a lock. I was then hit repeatedly with fists, kicks and more shots to the head, face and ear with the lock which fractured my head, dislodged and compression fractured my left cheek bone and swelled up my left ear - leaving it severely black and blue (full of fluid and blood). Please request the photos from the CID department at E.M.C.F. which also show my split left ear from the previous attack.

During the November 13th 2020 assault and Battery I was attacked by at least three (3) to four (4) gang members, (same as the other assaults). I only know two (2) of their nick names, "20 MOB" and "EB". Sergeant Gully took me to medical, however, medical did not give me any treatment - not even an Ice Pack; neither did they send me to the Hospital to have my dislodged cheek bone and forehead fractures reset.

- D. Continued

Unit manager Price, Warden Shaw, Security and the Gangs investigation Department were negligent and deliberately indifferent to the threat they caused to my life and the harm they caused to my mind and body. I had already been assaulted on unit 2 in 2018 by the same Vice Lord Gang who then attacked me again on unit 2 (on November 13th 2020) after E.M.C.F. Staff forced me back on that Gangs unit.

Unit manager Price's actions were egregious, they denied me equal protection, were negligent and deliberately indifferent to my well being, especially since she removed me from unit 4 DELTA (a safe - non gang ran zone) to 1 ALPHA (a dangerous - gang ran zone) after I had signed a Protective Custody form which stated that I only agreed (and felt safe) to live on 4 DELTA.

I never wanted to leave 4 DELTA nor did I want to live on 1 ALPHA where unit manager Price, Prison Security and the Warden forced me to go. I never signed a Protective Custody waiver to agree to be housed on 1 ALPHA before I was assaulted there on November 13th 2020.

I also suffered a brutal assault and battery back in 2018 on the same unit 2 (as I mentioned above). During that attack I was pummeled by a group of five (5) Vice Lords who hit me with roughly thirty (30) Power Punches to the head. The Gang said they had attacked me over a TV dispute (where they rudely changed the channel of President George Bush's funeral that I was watching without asking me before they changed it). I changed the channel back and got jumped on afterwards as they sneak attacked me in my cell. However, the whole situation was a set up. They had been targeting me and wanted to inflict injury

- D. Continued

(Possibly brain damage) to cover up the sexual harassment and money racketeering operation they orchestrated.

Claim # 2

Sexual Harassment and abuse

Although I did not expose myself to officer Gracie (on the Recreation Yard) on April 11th 2020 or at any time while on the "Rec Yard". Sergeant Bonner and Officer Gracie and many other E.M.C.F. Guards and Administrators have been pressuring and encouraging me relentlessly (for three (3) years) to engage with them in sexual activities (public masturbation) while in my cell and shower. The officer's sexual harassment and abuse led to these physical attacks which these officers have carried out through these gang members and/or contributed to and did nothing to stop or prevent.

The officers actions of sexual harassment and abuse violated my rights to be protected under the Eighth and Fourteenth Amendments to the United States Constitution which bans cruel and unusual punishment, and guarantees equal protection from being harmed when vulnerable and injured. They were also negligent, showed no reasonable care and were deliberately indifferent to the harm I suffered because they initiated the sexual contact which was the main component of their repeated harassment, the assaults and pressure to perform for them sexually. Their actions were so wanton it included the threat of a rule violation for not performing the masturbating sex act up to the female officers liking or approval. Also, staff and gang members would pressure me to either masturbate when I refused or to stop me when I was trying to enjoy the health benefits of the act in private.

D. Continued

If the officers encouraging me to masturbate for them had ended with good sleep and not all these physical and psychological consequences then their bad actions could be viewed as being done with good faith intentions but this is not the case.

Over time I began to realize that I've been a target of these officers and gang members sick and illegal money making scheme. Some of the officers are gang affiliated, working for or with the gangs to bring them in drugs, phones and other contraband. The sexual harassment and abuse began in 2017 over two (2) years ago while I was housed on unit 2 ALPHA (A drug and alcohol recovery program). An area I helped keep drug free for over 10 years.

I was targeted by the officers and gangs because I was in the way of them making more money off of selling drugs while I tutored and helped over 60 recovering addicts (especially the ones on 2 ALPHA) stay drug free. That was the initial reason the officers began harassing me with all kinds of sexual temptations and tricks.

I discovered this was all a ruse / scheme to try and get me to fist fight or masturbate so I'd get in trouble and be removed from the drug free zone. The officers and gangs wanted me gone so they could make more money. The officers could then supply the gangs with more drugs and customers to sell them to once I was no longer around.

Further, the officers and gangs were motivated to continue to sexually abuse and assault me out of fear of being exposed and criminally charged. After the 2018 assault / Battery and the RVRs I received for masturbating (by the same officers who enticed and pressured me to masturbate for them) I reported the incidents to MDOC and PREA. A PREA Representative for the Mississippi Coalition Against Sexual Assault visited and spoke with me at great length. The PREA Rep wrote me a follow

D. Continued

up letter on March 3rd, 2020. After which, I was assaulted again on April 11th 2020 on 2 DELTA.

Reporting the sexual abuse and assault is the reason why officers Bonner and Gracie along with the Vice Lords retaliated and assaulted me again. *Please see the PREA letter.

Further, the sexual harassment and abuse took an even darker turn when the officers and gangs pulled several "bait and switch" tactics by forcing me in the cell with homosexual and bi-sexual roommates. This led to several arguments and near fights as I resisted one of my roommates sick request for me to "Screw him".

The officer's actions were evil and sadistic, they have also been secretly video taping me masturbating to sell to other people. I was not behaving violently, disruptively or in any inappropriate way to deserve or invite this kind of sexual abuse.

They were motivated by their own greed not because I was some horny sexually deprived monster they needed to relieve for their sake or the sake of others.

I performed my facility Library job responsibly for over six (6) years and was a leader and tutor in the drug and alcohol program for 10 years without breaking a prison rule or causing an incident. The officers and gangs have also been literally "cock fighting" and betting on these masturbation escapades as sport - pitting me and other inmates against each other as part of their sick, in humane, sex and

gambling operation. What makes their actions even more evil and callous is the fact that they targeted and took advantage of me while I had been practicing complete sexual abstinence and faithfulness to God for 8½ years straight. Their tactics were also a part of their scheme to physically brand me a sex slave to their gang so they could try to control and profit off of my intellectual and musical property.

D. Continued

They beat me with a hard plastic food tray on my left ear until it split in half to try and brand or mark me as their property against my will.

I used to be the number one rated radio Disc Jockey for the whole state of Mississippi at 99 Jamz in Jackson for 5 straight years. I also had a very bright and promising music career. That is how and why I ended up in prison to begin with. These same gangs were plotting and assaulting me then the same as now.

Claim # 3

I was illegally sent to the lock-down unit and held there against my will and with no rule violation.

The first time was for over 3½ months, the second time was for 2½ months. I suffered the loss of thirty (30) lbs the first time and twenty (20) lbs the second, and became severely injured due to a combination of events / circumstances which included living in a dark cell with no light bulb for 2½ months. The fire alarm / sprinkler also malfunctioned three separate times (gushing water out for 30 minutes each time). This caused me to be injured as I frantically scrambled to protect all my property (including legal work and mattress) from being ruined. I was forced to breathe black mold for 2½ months.

I was also fed four poisoned contaminated food trays which caused my vision to go completely black and had me on the verge of passing out. I also became the target of gang terror tactics which included their tracking of my vital signs (heart rate and brain wave activity) through chemical elements they put in my food and a tracking device they planted on my body at medical during a mole removal procedure I had done. This enabled

D. Continued

the Gangs to be able to read my Vital Signs (heart rate and brain wave activity) from the chemical dye and device they planted or through received text messages or phone calls of this information from other people. I know this to be true after over a year and a half of being constantly woken up by them 5, 6, 7 even 9 times in a row when I'm on the verge of falling asleep or back to sleep. They've continued to harass and terrorize me with these shocking, sleep depriving tactics. They have called these and other ways of waking me up, "No Sleep Gang!"

I know this to be factual because of the comments they make and the fact that they consistently know exactly when my heart rate and brain wave activity slows down to where I'm on the verge of falling asleep.

Now I've become so paranoid and terrorized that I'm having negative psychological reactions to the abuse (Nervous twitches and tics) the Gang and officers are insinuating these are bitch like / feminine characteristics. What makes this so cruel is they've enticed / excited me with all these young female guards, all a part of this terroristic plot to physically and psychologically break me down. They've weakened me with these women, urging me to masturbate for them compulsively 3, 4, 5 times in a row or more than send Gang members to assault me. This was their attempt to Punk me out and try to emasculate and reduce my virility and manhood. When they couldn't break me down with the women and bad "Junkie / addict" roommates one after another, they resorted to these vital sign reading devices of sleep deprivation / terrorism and Group / Gang Beatings.

D. Continued

The first time I was illegally sent to the lock down unit was on September 17th 2019 as punishment for reporting to unit manager Jackson that my bi-sexual roommate locked me in our cell and wanted to fight because I refused his sexual advance for me to "screw him." He was also mad that I wouldn't tolerate him having sex with other male inmates in our room especially during count time.

The second time I was sent to lock-down illegally was on 5/7/20 when I reported to several officers, unit manager Nelson and medical that the Vice Lords on 2 Delta who had violently assaulted me were now poisoning my water and coffee. I had no EVER convictions from disciplinary to be held in lock-down and certainly not for the excessive length of time (5 1/2 months) I was cruelly forced to live there.

D. Continued

ten (10) years or longer while importing all kinds of people to help from other states.

Transferring inmates to other states is the only way to successfully make sure the Federal and Mississippi state tax funds being sent to Mississippians incarcerated will actually go toward that objective instead of being squandered and used for criminal activities and abuse. This will also enable us inmates to be quickly and safely restored to productive, healthy tax paying citizens.

Lord willing, once the National Prison Model is improved and proven safe, effective and cost efficient, then rebuilding the prison system (slowly) in Mississippi could one day be a practical reality.

Thank you.

(1)

V. Injuries

Physical injuries from the three (3) assaults and batteries and the two (2) illegal stints I spent in the lock-down unit. Also, the Sexual abuse injuries.

A severed left ear, dislodged (broken or fractured) left Cheek bone and Cracked forehead, severe neck, back and Spinal Cord injuries from 50-60 very heavy punches to the head & face which included about twelve (12) hits to the head & face with a hard Plastic food tray and 7-8 blows to the head & face with a metal lock.

Sore and Cracked ribs and a torn / Strained left Knee (but these injuries have healed with no noticable after affects, Pain or disability). My neck, back, Spinal Cord injuries affect me everyday I live with constant Pain and a strong numbness to my left Shoulder and arm. It also affects the entire left side of my body including my left leg. Also, a hernia and numbness in the head of my Penis.

The Psychological injuries from the attacks, torment abuse (lock-down), gang terrorism and sexual abuse has caused extreme Paranoia and anxiety (which has caused muscle spasms and nervous tics) Severe Clinical Depression, and high blood Pressure.

I am also experiencing Chest Pain due to stress and an irregular heart beat. I have a pre-existing heart condition (a mitral valve prolapse) "Heart murmur" and am experiencing frequent loss of breath while sleeping - an APnea - triggered by the above noted trauma. I fear this is causing deterioration of my heart and artery function Putting me at a higher risk of fatal Cardiac arrest or stroke. I believe I've already survived one mild stroke and heart attack. These conditions have been ongoing for over (2) Years.

(2)

I was not given any medical treatment or help from the E.M.C.F. Staff after my first assault and Battery in 2018. I also did not receive any help during or after the April 11th 2020 Assault and Battery I suffered. I was not taken to the Hospital to have my left ear reattached, that is why it is still split. I did not get X-rays taken for the April 11th 2020 incident until months later, at which time, Dr. Arnold (at E.M.C.F.) Claimed in his X-ray report that there was no damage, fracture or break.

However, with all the constant pain, numbness, misalignment of my spine and the two (2) top Vertebrae dislocated, medical has continued to refuse to send me to an outside specialist for treatment and/or an MRI. I know my injuries need a procedure or surgery that the Prison administrators refuse to admit (despite the evidence) to the point of deliberate indifference and gross negligence.

For example, Dr. Arnold has even embellished my X-ray report to include no separated left shoulder when I have a permanently separated left shoulder from a childhood snow skiing accident. It is also obvious to me that he added this lie to cover up for the Prison a separated shoulder he thought they would be not only required to repair but also held monetarily responsible for by this Honorable Court. That is how I also know medical is lying about my spinal cord injuries (fracture and misalignment) which is causing constant pain and numbness that I have been suffering with since the first and second assaults.

and lock-down injuries for about 2 years now. I also did not receive emergency medical treatment during or immediately after my third assault when I was hit in the face and head with a lock by gang members. The X-rays were taken three (3) days after the November 13th Assault. I was not brought to the Hospital even though my Cheek bone is Compressed / fractured and my forehead is also cracked and disfigured as well. Despite these Physical signs of Swelling, disfigurement, Pain and bruising, medical told me through a nurse that the X-rays were negative for any break or fracture.

Further, I never had a follow up visit with Dr. Arnold (at E.M.C.F.) to go over the X-ray results neither did I get to see or even read his report.

Now that I've developed a deep psychological neurosis from these traumatic events, I have been prescribed an anti-psychotic (Risperdal) to help me cope with the Paranoia and nervousness; however, the Prison still has not done anything to correct or fix my injuries or to remove the problem gang members who cause violence through the use of Contraband cell phones and drugs, neither have they kept me out of Prison areas that contain gang affiliated members and dope friends.

In fact, after I signed two (2) Protective Custody Waiver forms to be housed on a safe zone, unit manager Price (who is known to be affiliated with Vice Lords) moved me with the help of Prison security to zone 1 Alpha which subjected me to even more gang activity, Contraband violence / harassment where I was violently assaulted for a third time.

Furthermore, the November 13th 2020 assault with the lock to my face and head is continuing to give me Pain, disorientation, nausea and imbalanced (dizzy) equilibrium. I have fluid and swelling in my left ear and Cheek bone with bruising and constant pressure to my sinus cavity due to the compressed bones. It is also giving me blurred vision and frequent headaches.

Please help - I AM alarmed at the extent of these injuries and their effect on my future safety and health.

VII. Relief

I want this Honorable Court to order the Prison (E.M.C.F./ M.D.O.C.) to send me to an outside Doctor who specializes in neck, back, spinal cord injuries and Chiropractic therapy. I'm requesting to be evaluated for these injuries and to receive an MRI to see the actual cause of my spinal cord pain and numbness.

I also want to see a Surgeon to repair /attach my left ear and to restructure my disfigured face (left cheek bone and forehead) back to their original form. Please also order that I be seen by an outside Psychiatrist/ Psychologist to be treated for the neurosis I've developed over these years of relentless traumatic abuse.

Compensation: I deserve and want to be paid 524-525 Million Dollars to cover all these assaults, sexual abuses and harassment. Also, I deeply desire for the federal government to cut all funding to Mississippi prisons or at least a large portion to be re-appropriated to other states who are operating their prisons productively with effective "fast track" rehabilitation programs and security measures that eliminate gangs and corruption - (so that inmates can earn our early release in the most efficient and beneficial way possible).

In addition, transfer (through Interstate Compact law) the Mississippi inmates who are well behaved, are not gang affiliated and want to be "fast tracked," to one of the better functioning prisons in another state - so that we can be rehabilitated /educated and paid to work. This will ensure mental, physical and financial development with the benefit of having some thousands saved

up "legally" before we are released which will give us a real chance at a new start. This also helps solve/ correct or atleast give gang affiliated and criminally minded people an option and incentive to stop selling drugs. It will also help reduce money scam operations and every other form of destructive criminal business for a better, honest way that also helps everyone else both inside the prison and out, now and later.

This shift in Federal funds will guarantee that government funding to Mississippians incarcerated will be utilized wisely and no longer squandered - and used for violence, crime and death through all different forms of corrupt practice.

The Prison system is so criminal in Mississippi it causes these type of violent abuses and trauma such as mine and worse. Violence, crime, abuse and death is a habitual and inherently dysfunctional part of the Mississippi Prison Systems design and everyday operation. It has become a factory for underground criminal revenue.

I don't want any credit for these ideas - Just do it, please. The systems here are beyond realistic and expedient reconstruction. Use the federal funding to expand and improve the already productive states whos prison systems are functioning effectively and safely. Then you can transfer us deserving inmates out as fast as possible (correctly rehabilitated through these other state prisons) while productively working and learning new skills along with purpose driven education. This can be accomplished within 2 to 5 years (which includes moving us inmates ready to be fast tracked out within that time frame). Otherwise, to try and fix the broken system in Mississippi it would take

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

East Mississippi Correctional Facility (E.M.C.F.)

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

Yes, they can treat for injuries but have refused to give me the necessary medical and surgical help I need.

- They can keep me out of gang ran zones but have continued to surround me with gang members and illegal criminal activity.

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

A + E.M.C.F. through their ARP Grievance Department.

2. What did you claim in your grievance?

The assault and Battery of April 11th 2020, E.M.C.F.'s failure to protect or give me any Emergency medical treatment. The officers role in causing me to be assaulted by the gangs and various other abuses including sexual abuse and harassment. Please see the

3. What was the result, if any?

Statement of the Claim and the ARP
it self for all the details.

My ARP was denied

for requesting more than the ARP's power to grant. I filed a corrected version that got no consideration. The ARP department used another ARP I filed after in its place against MDOC policy and my written requests.

(Please See
Section G.)

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Please See Section G. Page 8 for the full detailed explanation of how I pursued every avenue available to fully exhaust my administrative (ARP) remedies within the MDOC system before filing my appeal to this Honorable Court.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

on the first gang Assault of 2018 I didn't file a grievance because I wanted to forgive and give them a chance. I filed grievances after on the following abuses and assaults.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

ON the
First
Assault:

I told medical Staff: Nurse practitioner Stroud, Mrs. Cole, the Warden and many other E.M.C.F. and MOOC employees. Including CID investigation,

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Please see the attached and corresponding explanation.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.) This includes the ARPS I filed,

letters to the ARP department, PREA, Governor, Investigation Dept at MDOC and the local Sheriff.

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

G. Page 8 (11)

Please set forth any additional information that is relevant to the exhaustion of your Administrative remedies.

I filed an Administrative Remedy (ARP) 20-588 grievance with MDOC through the E.M.C.F. ARP department on 5/9/20 concerning a violent assault and injuries I suffered on 4/11/20. The ARP was rejected before the process was completely exhausted. The ARP department chose to accept a different and separate ARP number 20-629 (I had filed afterwards) in its place.

This goes against MDOC Policy 20-08-01 and the "Corrected Version" of my rejected ARP (20-588) that I timely re-submitted. Despite the fact that I removed the reasons my original ARP was rejected (for being "beyond the power of ARP to grant") which included (1) asking for monetary compensation and (2) requesting to press charges, the department gave my "Corrected Complaint" no consideration or response at all until November 3'd 2020. Instead, they replaced it with a different ARP I filed afterward that was not to be used as a substitute or in place of the corrected version.

MDOC Policy 20-08-01 states, ARP's are to be processed in the order they are received until exhaustion... "if an offender submits multiple requests during the review of a previous request, they will be logged and set aside for handling at such time as the request currently in the system has been exhausted..." Responding to Corrected Complaints is a part of this process. (See lines 153 and 154).

Further, I received my original Assault ARP of 5/9/20 back rejected on 6/15/20 (See inmate receipt on ARP 20-588) and filed my "Corrected Complaint" the next day on 6/16/20 which is within the five (5) day time limit MDOC gives to re-submit a corrected complaint. Policy 20-08-01 states on lines 153 and 154, "The offender will then have five days from the date the rejection memo is received to appeal this rejection through channels or to re-submit his corrected complaint (beginning with the first step)."

I have also notified the ARP department to exhaust my "Corrected Complaint" before moving on to any ARPs I filed after the original Assault ARP of 5/9/20. Moreover, I've been contesting the department's disordered handling of my 5/9/20 Assault ARP timely resubmitted as "corrected" on 6/16/20. Please see the attached letters of 5/24/20, 6/16/20, 7/5/20, and 11/17/20 which explain and demonstrate in detail the multiple written requests I made to the ARP department for them to process my "Corrected Complaint" ARP of 6/16/20 before and instead of handling any ARPs that I submitted after the original I wished to correct of 5/9/20.

This violation of MDOC/E.M.C.F.'s Policy was a dishonest attempt by the administration to circumvent the ARP process by cherry picking which ARP they would rather respond to over the one I preferred to pursue to exhaustion. The ARP department has habitually denied ARPs on their face for containing more than one request/complaint even though all issues of the complaint stem from the same incident and comply with the Policy rules of 20-08-01.

I am now filing my timely Judicial Review within thirty (30) days of the ARP department's November 3rd, 2020 refusal to acknowledge or process my "Corrected Complaint" of ARP # 20-588. Please see the attached notice of their decision. This notice is also evidence of how the ARP department considers ARP # 20-629 to be "Previously Submitted" when it was filed after ARP 20-588 but wrongfully processed out of order.

* The outgoing legal mail service and Notary at E.M.C.F. has been shut down due to a Corona Virus Quarantine of its workers. I was fully prepared to timely mail this Petition on December 3rd, 2020, however, I was unable due to the law library shut down.

I was told by the Prison officials including (unit manager Mrs. Howard) that I am eligible for a waiver of the deadline. She instructed me to notify you and request that you call the Prison (601) 485-5255, to verify that the law library was shut down on December 3rd, 2020 which prevented me from mailing this Petition to you properly through the law library until now.


Stephen Montalto 142736

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☐ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

☐ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 12/3/20

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Stephen Montalto
Stephen Montalto
142736
E.M.C.F. 10641 HWY 80W
Meridian MS 39307
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City State Zip Code

Telephone Number


E-mail Address

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
CERTIFICATE OF SERVICE

This is to certify that I have this date, caused to be mailed, via United States mail, Postage Pre-paid, a true and correct copy of the above and fore going to:

UNITED STATES DISTRICT COURT
501 East Court Street Ste. 2. 500
Jackson, MS 39201

SO CERTIFIED, this the 15th day of December, 2020

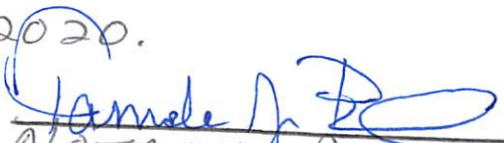

STEPHEN MONTALTO
MDOC # 142736
10641 Hwy 80 W
Meridian, MS 39307

STATE OF MISSISSIPPI
COUNTY OF LAUDERDALE

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for said jurisdiction, the within named Petitioner, who, after first being by me duly sworn, stated on oath that the statements set forth in the above and fore going are true and correct as therein stated.

SWORN TO AND SUBSCRIBED before me, this the 15th day of December, 2020.




NOTARY PUBLIC